

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) AWA Docket No. 14-0041
)
CHINA CARGO AIRLINES CO., LTD.,)
also known as CHINA CARGO AIRLINES,)
LTD., a subsidiary of CHINA EASTERN)
AIRLINES CORPORATION LIMITED, a)
corporation chartered in the People's)
Republic of China,)
)
Respondent.) COMPLAINT

There is reason to believe that the respondent named herein has violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(Act), and the regulations and standards issued pursuant thereto (9 C.F.R. § 1.1 et seq.)(Regulations and Standards). The Administrator of the Animal and Plant Health Inspection Service therefore issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent China Cargo Airlines Co., Ltd., also known as China Cargo Airlines, Ltd. (China Cargo), is a subsidiary of China Eastern Airlines Corporation Limited, a corporation chartered in the People's Republic of China. The principal business address of China Cargo is 818 Dong Fang Road, 1. Pu Dong New Area, Shanghai 200122, People's Republic of China. China Cargo is registered in the State of California. China Cargo's agent for service of process is Cheng Liang, 5758 West Century Boulevard, Los Angeles, California 90045. China Cargo was registered and operating as a carrier under the Act and the Regulations and held registration number 93-T-0037 until approximately June 2010, when China Cargo canceled its registration. Thereafter, China Cargo again registered as a carrier, and currently holds registration number 33-T-0012.

2. Respondent China Cargo is the largest cargo airline in the People's Republic of

China. The gravity of the violations alleged herein is great. On or about March 10, 2010, China Cargo accepted 566 guinea pigs for transportation in commerce and transported the 566 guinea pigs from Shanghai, People's Republic of China, to Los Angeles, California. Only 178 guinea pigs were alive upon arrival in Los Angeles. Of those, forty-seven more guinea pigs died shortly after arrival. Of the original 566 guinea pigs transported by China Cargo, only 131 survived.

ALLEGED VIOLATIONS

3. On or about March 10, 2010, respondent China Cargo violated the Regulations (9 C.F.R. § 2.131(b)(1)), by failing to handle 566 guinea pigs as expeditiously and carefully as possible in a manner that would not cause them trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort, and specifically, *inter alia*, China Cargo accepted the animals for shipment too early and in nonconforming containers that offered inadequate ventilation, space, and bedding, and were not adequately labeled or suitable for lifting, misidentified the containers of the guinea pigs as "perishables, not containing live animals," which resulted in the animals being loaded into an air-tight, sealed container with inanimate cargo, and failed to provide any food or water to the animals. 9 C.F.R. § 2.131(b)(1).

4. On or about March 10, 2010, respondent China Cargo violated the Regulations (9 C.F.R. § 2.100(b)), by failing to meet the Standards for the humane transportation of guinea pigs (9 C.F.R. §§ 3.35-3.41), and specifically, accepted 566 live guinea pigs for shipment in commerce more than four hours before the scheduled departure of the primary conveyance in which the animals were to be transported. 9 C.F.R. § 3.35(a).

5. On or about March 10, 2010, respondent China Cargo violated the Regulations (9 C.F.R. § 2.100(b)), by failing to meet the Standards, and specifically, China Cargo accepted 566 live

animals for transport, and transported the animals in nonconforming primary enclosures,¹ as follows:

a. China Cargo accepted 566 live guinea pigs for transport in commerce and transported those animals in 36 primary enclosures that did not conform to the requirements set forth in section 3.36(a) of the Standards, and specifically, the primary enclosures did not provide the animals contained therein with adequate ventilation. 9 C.F.R. § 3.35(b).

b. China Cargo accepted 566 live guinea pigs for transport in commerce and transported those animals in 36 primary enclosures that did not conform to the requirements set forth in section 3.36(a) of the Standards, and specifically, the primary enclosures did not have handles, handle holds, or other means to lift the enclosures without tilting them. 9 C.F.R. § 3.35(b).

c. China Cargo accepted 566 live guinea pigs for transport in commerce and transported those animals in 36 primary enclosures that did not conform to the requirements set forth in section 3.36(c) of the Standards, and specifically, the primary enclosures did not provide the animals contained therein with sufficient space to turn about freely and to make normal postural adjustments. 9 C.F.R. § 3.35(b).

d. China Cargo accepted 566 live guinea pigs for transport in commerce and transported those animals in 36 primary enclosures. Twenty-four of those enclosures did not conform to the requirements set forth in section 3.36(d) of the Standards, in that each contained more than fifteen guinea pigs. 9 C.F.R. § 3.35(b).

e. China Cargo accepted 566 live guinea pigs for transport in commerce and

¹China Cargo did not obtain a certificate from the consignor stating that the enclosures did conform to the standards. 9 C.F.R. § 3.35(b).

transported those animals in primary enclosures that did not conform to the requirements set forth in section 3.36(e)(1)(ii) of the Standards, and specifically, none of the primary enclosures provided the guinea pigs with the minimum amount of floor space required per animal. 9 C.F.R. § 3.35(b).

f. China Cargo accepted 566 live guinea pigs for transport in commerce and transported those animals in primary enclosures that did not conform to the requirements set forth in section 3.36(f) of the Standards, and specifically, the primary enclosures did not contain a sufficient quantity of clean litter of a suitable safe, nontoxic, absorbent material. 9 C.F.R. § 3.35(b).

g. China Cargo accepted 566 live guinea pigs for transport in commerce and transported those animals in primary enclosures that did not conform to the requirements set forth in section 3.36(g) of the Standards, and specifically, the primary enclosures were not clearly marked on top and on one or more of the sides with the words "Live Animals," as required, and were not clearly marked with arrows denoting the correct upright position of the containers, and instead, China Cargo identified the containers of the guinea pigs as "perishables, not containing live animals," which resulted in the animals being loaded into an air-tight, sealed container with inanimate cargo. 9 C.F.R. § 3.35(b).

6. On or about March 10, 2010, respondent China Cargo violated the Regulations (9 C.F.R. § 2.100(b)), by failing to meet the Standards, as follows:

a. China Cargo failed to place 566 live guinea pigs in the animal cargo space of its primary conveyance, and instead transported the animals in the cargo hold used for transporting inanimate cargo, which space (1) was not designed and constructed to protect

the health and ensure the safety and comfort of the animals, (2) was not constructed and maintained to prevent the ingress of engine exhaust fumes and gases during transportation, (3) did not have an adequate supply of air to permit each animal to breathe normally or to have access to sufficient air, and (4) did not provide fresh air or minimize drafts, condensation, or excessive heat or cold. 9 C.F.R. §§ 3.37(a), 3.37(b), 3.37(c), 3.37(g).

b. China Cargo failed to place the enclosures containing 566 live guinea pigs in the primary conveyance in such a manner that they could be removed as soon as possible in the event of an emergency. 9 C.F.R. § 3.37(d).

c. China Cargo failed to provide 566 live guinea pigs, in transport, access to food or water for a period of approximately 22 to 24 hours. 9 C.F.R. § 3.38(a).

d. China Cargo accepted 566 live guinea pigs for transportation in commerce without an adequate supply of food. 9 C.F.R. § 3.38(c).

e. China Cargo failed to visually observe 566 guinea pigs when they were unloaded, to assure that they were receiving sufficient air for normal breathing, their ambient temperatures were within prescribed limits, all other applicable Standards were complied with, and to determine whether the guinea pigs were in obvious physical distress, and respondent failed to provide veterinary care to the surviving guinea pigs upon arrival at Los Angeles, California. 9 C.F.R. § 3.39(a).

f. China Cargo commingled a shipment of 566 live guinea pigs with inanimate cargo, and failed to place animals transported in commerce in an animal holding area of a terminal facility upon arrival in Los Angeles, California, or as quickly as possible thereafter, and instead, held the animals for several hours outside on the tarmac. 9 C.F.R. §§ 3.40, 3.41.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact violated the Act and the Regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 18th day of November 2013



Administrator
Animal and Plant Health Inspection Service

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